STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of JALEN RASHAD WEBB, Minor.

DEPARTMENT OF HUMAN SERVICES, f/k/a FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JANICE LAVERN WEBB,

Respondent-Appellant,

and

VIRGIL WOLFE,

Respondent.

UNPUBLISHED
March 6, 2007

No. 271648
Wayne Circuit Court
Family Division
LC No. 04-433018-NA

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Respondent-appellant appeals by right from the order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues that no "clear and convincing legally admissible evidence" was presented warranting termination of her parental rights. She contends that because testimony regarding her continued drinking constituted new circumstances, such hearsay evidence was not admissible. Respondent-appellant did not object to the evidence on this ground below, and we therefore review this issue for plain error affecting respondent-appellant's substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

Where termination of parental rights is sought in the initial petition, the court must find "clear and convincing legally admissible evidence" to establish the grounds for termination. MCR 3.977(E)(3). Where termination is sought in a supplemental petition on the basis of circumstances new or different from the circumstances that led the court to take jurisdiction over the child, the court also must find that the statutory grounds have been established by "clear and convincing legally admissible evidence." MCR 3.977(F)(1)(b). However, where parental rights

are not terminated at the initial disposition or at a later hearing on the basis of changed circumstances, and the child is within the court's jurisdiction, the court may rely on "all relevant and material evidence, including oral and written reports" to find that statutory grounds for termination are established. MCR 3.977(G)(2). In these circumstances, the Michigan Rules of Evidence do not apply. *Id*.; *In re Gilliam*, 241 Mich App 133, 136-137; 613 NW2d 748 (2000).

In the case at hand, the initial petition alleged that respondent-appellant drank too much alcohol and was often too intoxicated to care for the minor child and to help his older siblings with their homework. Testimony at the termination hearing, that respondent-appellant was again drinking, was related to the basis under which the court assumed jurisdiction. Therefore, these "supplemental" proofs did not have to be admissible under the Michigan Rules of Evidence. MCR 3.977(G)(2). Thus, the court did not err in allowing the caseworker to testify about statements made by respondent-appellant's children and the foster parent that respondent-appellant was drinking during the visits.

The trial court also did not clearly err in finding that the statutory grounds for termination were established. MCR 3.977(J). Evidence that respondent-appellant drank alcohol during visits with the children supported the finding that the condition that led to adjudication, respondent-appellant's alcohol abuse, continued to exist. Respondent-appellant was offered a number of services to address this problem but failed to adequately address it. Although respondent-appellant had a drug assessment done and had participated in an outpatient treatment program, she missed some drug screens and had not attended NA and AA meetings. Therefore, the trial court did not clearly err in finding that respondent-appellant's substance abuse problem would not be rectified within a reasonable time considering the child's age.

Respondent-appellant also argues that termination of her parental rights was clearly against the child's best interests. However, at the time of the termination hearing, respondent-appellant had failed to adequately address her substance abuse problem, failed to complete parenting classes, and was behind in her rent. Although respondent-appellant loved her son, after two years of services, respondent-appellant still was not able to care for him. Thus, the evidence did not demonstrate that termination was clearly not in the child's best interests.

We affirm.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Kurtis T. Wilder